

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DARRYL BROWN,		:	
	Petitioner,	:	
		:	
-against-		:	20-CV-10491 (VSB)
		:	
LETITIA JAMES, et al.,		:	<u>ORDER</u>
		:	
	Respondent.	:	
		:	
-----X		:	

VERNON S. BRODERICK, United States District Judge:

On August 31, 2021, Magistrate Judge Katharine H. Parker issued a Report and Recommendation recommending that I deny Petitioner’s petition for a writ of habeas corpus. (Doc. 14.) After I granted him an extension on September 8, 2021, (Doc. 16), Petitioner filed his objections on October 14, 2021. (Doc. 17.) On July 5, 2023, I adopted Judge Parker’s Report and Recommendation in its near-entirety¹ and denied Petitioner’s petition. (Doc. 18.)

Petitioner, who at the time was represented by counsel Joey Jackson (“Mr. Jackson”), then filed a letter on August 7, 2023 requesting that the Clerk of the Court “notify [him] by mail if Mr. Jackson did file a Notice of Appeal on [his] behalf, or if he failed to do so.” (Doc. 19.) I ordered Mr. Jackson to provide a status update addressing Petitioner’s letter, which Mr. Jackson filed on October 5, 2023, detailing his representation of Petitioner and explaining that he is “no longer in a position to continue [his] representation.” (Doc. 21 at 2.) I directed Mr. Jackson to properly withdraw as counsel in accordance with Local Rule 1.4, which he did on October 16, 2023, (Doc. 24), and granted Petitioner leave to file a late notice of appeal. (Doc. 22.)

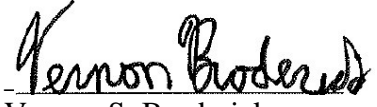
¹ Although I disagreed with Judge Parker’s analysis of N.Y. Penal Law § 35.15, New York’s justification statute, I ultimately agreed with Judge Parker’s conclusions.

Petitioner filed his notice of appeal on November 16, 2023. (Doc. 27.) After Petitioner filed the incorrect forms seeking to proceed in forma pauperis on appeal, (Docs. 25–26), I ordered Petitioner to submit to the Pro Se Intake Unit the correct forms, (Doc. 28). After Petitioner filed the correct forms but failed to answer the portion of the form requiring him to state the issues on appeal, (Doc. 29), I ordered him to file a corrected affidavit, (Doc. 30). Petitioner then filed the corrected forms. (Doc. 31.)

On April 5, 2024, I denied Petitioner's request to proceed in forma pauperis on appeal. (Doc. 32.) Because Petitioner has not made a substantial showing of the denial of a constitutional right, a certificate of appealability will not issue. *See* 28 U.S.C. § 2253(c)(2). The Clerk of Court is respectfully directed to mail a copy of this Order to the pro se Petitioner.

SO ORDERED.

Dated: April 10, 2024
New York, New York


Vernon S. Broderick
United States District Judge